

JUDGE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

COGENT BRAIN, PS,

Plaintiff,

vs.

SAFECO INSURANCE COMPANY OF
AMERICA, INC., a Washington corporation,
and FIRST NATIONAL INSURANCE OF
AMERICA, a Washington corporation;
LIBERTY MUTUAL FIRE INSURANCE CO.
and LIBERTY MUTUAL INSURANCE
COMPANY, foreign insurance companies,

Defendants.

LAWRENCE A. THOMAS, DC, PS, d/b/a
CAPITOL HILL CHIROPRACTIC and BC
CHIROPRACTIC d/b/a Cooper Chiropractic,

Plaintiffs,

vs.

SAFECO INSURANCE COMPANY OF
AMERICA, INC., a Washington corporation,
and FIRST NATIONAL INSURANCE OF
AMERICA, a Washington corporation;

NO. 2:23-cv-00544-RSM

STIPULATED MOTION AND ORDER FOR
CONSOLIDATION OF RELATED
ACTIONS UNDER FED. R. CIV. P. 42(a)(2)

NOTE FOR MOTION CALENDAR: 5/3/23

NO. 2:23-cv-00545-RSL

LIBERTY MUTUAL FIRE INSURANCE CO.
and LIBERTY MUTUAL INSURANCE
COMPANY, foreign insurance companies,

Defendants.

I. STIPULATION

The Plaintiffs, Cogent Brain PS and Lawrence A. Thomas, DC, PS, d/b/a Capitol Hill Chiropractic and BC Chiropractic d/b/a Cooper Chiropractic (hereinafter “Plaintiffs”) and Defendants, Safeco Insurance Company of America, Inc., First National Insurance Company of America (improperly named as First National Insurance of America), Liberty Mutual Fire Insurance Company, and Liberty Mutual Insurance Company (hereinafter “Defendants”) hereby stipulate as follows:

1. The cases *Cogent Brain, PS v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00544-RSM, and *Lawrence A. Thomas, DC, PS et al. v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00545-RSL, both involve Class Action Complaints for Violation of Consumer Protection Act, RCW 19.86 et seq. The cases identified above involve the same Defendants, the same claims and present the same controlling issues of law.

2. While the cases have different plaintiffs, the cases allege identical causes of action and share common issues of fact and law as to liability and damages. The cases also involve many of the same witnesses, records, and other documentary evidence. Discovery served by Plaintiff will be identical in both cases. Consolidating the cases for trial under Fed. R. Civ. P. 42(a)(1) will promote efficiency and conserve judicial resources.

3. Pursuant to LCR 42(a), Plaintiffs and Defendants stipulate that the later filed lawsuit, *Lawrence A. Thomas, DC, PS et al. v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00545-RSL, shall be consolidated with: *Cogent Brain, PS v. Safeco Insurance Company of America, et al.*, Western District of

Washington Cause No. 2:23-cv-00544-RSM. The parties agree that the caption for the current case: *Cogent Brain, PS v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00544-RSM, shall be amended to add the caption for *Lawrence A. Thomas, DC, PS et al, v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00545. The parties agree that all future pleadings, motions, briefs, and other papers shall be filed only in *Cogent Brain*, Case No. 2:23-cv-00544-RSM.

4. Neither *Cogent Brain, PS v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00544-RSM nor *Lawrence A. Thomas, DC, PS et al, v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00545-RSL have been assigned a trial date.

5. The parties agree and request that the case schedule for *Cogent Brain, PS v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00544-RSM shall govern this lawsuit.

6. The Parties have met and conferred regarding this Stipulation and Proposed Order, as called for in LCR 42(b).

7. Each named Plaintiff will continue to represent only the putative class set forth in their respective complaint. The Parties stipulate that consolidation does not give rise to any new affirmative defenses or challenges to standing, adequacy or typicality to represent a class based on the claims or putative class set forth in the other consolidated case.

DATED May 3, 2023

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2 DATED May 3, 2023

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6 Attorneys for Defendants

8 DATED May 3, 2023

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II. ORDER

Based on the foregoing Stipulation, it is hereby ORDERED:

(1) That the later filed case the later filed lawsuit, *Lawrence A. Thomas, DC, PS et al, v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00545-RSL, shall be consolidated into case: *Cogent Brain, PS v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00544-RSM.

(2) That the caption for the current case *Cogent Brain, PS v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00544-RSM, shall be amended to add the caption for *Lawrence A. Thomas, DC, PS et al, v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00545.

(3) All future pleadings, motions, briefs, and other papers shall be filed only in *Cogent Brain*, Case No. 2:23-cv-00544-RSM.

(4) The case schedule for *Cogent Brain, PS v. Safeco Insurance Company of America, et al.*, Western District of Washington Cause No. 2:23-cv-00544-RSM (once issued) shall govern the consolidated lawsuits

DATED this 5th day of May, 2023.



RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

1 Presented by:

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on the date set forth below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system. All other parties (if any) shall be served in accordance with the Federal Rules of Civil Procedure.

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SIGNED this 3rd day of May, 2023, at Seattle, Washington.

s/ Traci Jay

Traci Jay